

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**RBH Energy, LLC,**

**Plaintiff**

**v.**

**Partners in Church Consulting, LLC**

**Defendant.**

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**Cause No. 15-CV-3988**

**JURY DEMANDED**

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**PLAINTIFF'S ORIGINAL COMPLAINT**

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1. Plaintiff, RBH Energy, LLC ("RBH" or "Plaintiff"), files this complaint against Defendant, Partners in Church Consulting, LLC ("Partners" or "Defendant") and alleges:

**JURISDICTION/VENUE**

2. RBH's claims arise under the copyright laws of the United States, 17 U.S.C. 101 et. seq., (hereinafter the Copyright Act.), and 17 U. S.C. § 1202 et seq. of the Digital Millennium Copyright Act ("DMCA").

3. Subject matter and personal jurisdiction is vested in this Court pursuant to 28 U.S.C. 1338. Additionally, this Court has subject matter jurisdiction under 28 U. S.C. 1331 inasmuch as this claim arises under the copyright laws of the United States. Venue in this judicial district is proper pursuant to 28 U.S.C. 1400(a) and 28 U.S.C. 1391(b) and (c).

**PARTIES**

4. Plaintiff is a Texas Limited Liability Company with its principal place of business in Fort Worth, Texas.

5. Defendant is a limited liability company that was previously registered to do business in

the state of Texas. Defendant has its principal place of business at 1560 East Southlake Blvd., Suite 244, Southlake, Texas, 76092.

### **FACTS**

6. Plaintiff is the sole owner of all right, title and interest in and to the copyrights in certain photographs (the “Photographs”) as follows:

- a. “Brian Harness Photography Collection 2005 Vol. II,” registered under U.S. Copyright Reg. VAu672-978, shown in the attached Exhibit 1, with one photograph deposited with said registration shown in the attached Exhibit 2;

7. RBH’s copyrights in the above-described works are valid and subsisting, and have been valid and subsisting from the moment of their creation in the year indicated above. The foregoing copyright registration was issued in compliance with Title 17 of the United States Code and all rights and privileges thereunder in and to the copyrights to the above-described photographs belong to RBH as shown in Exhibit 3. All conditions precedent to the filing of this suit have occurred.

8. Defendant is presently using, and has been using for a length of time to be determined, Photographs on its website at [www.partnersecc.com](http://www.partnersecc.com) without license or authorization from Plaintiff, as shown in the attached Exhibit 4.

9. In addition, in making and distributing unauthorized copies of the Photographs, on information and belief, Defendant has intentionally removed and/or omitted copyright management information from the copies of the Photographs without the authority of Harness.

10. Defendant distributed copies of the Photographs knowing that the associated copyright management information had been removed or omitted and Defendant knew or had reasonable grounds to know that such removal or omission would induce, enable, facilitate, and/or conceal

the infringement of Plaintiffs' copyrights.

### **CAUSES OF ACTION**

11. Plaintiff re-alleges and incorporates, as if set forth herein, paragraphs 1 through 10 above.

12. Defendant has infringed (either willfully or non-willfully) Plaintiff's copyrights in and to the Photographs by scanning, copying, reproducing, distributing, publishing and/or otherwise using, unauthorized copies of the Photographs within the United States in violation of the Plaintiff's rights under Title 17.

13. Defendant has violated the DMCA, 17 U.S.C. § 1202, by removing copyright management information and distributing the Photographs without such information.

### **CAUSATION/DAMAGES**

14. As a direct and proximate result of Defendant's above-described acts of copyright infringement and DMCA violations, Plaintiff has sustained actual damages in an amount not yet ascertained, including without limitation lost profits and/or lost licensing revenue, loss of good will, research time tracking down and documenting the infringements and attorney time to institute this action.

### **RELIEF REQUESTED**

15. Plaintiff demands an accounting by Defendant of its activities in connection with their infringements of his copyrights in and to the Photographs, as well as their gross profits and income derived therefrom.

16. Plaintiff is entitled and seeks to recover actual damages plus the profits of Defendant attributable to the infringements of copyright.

17. Alternatively, because the Photographs were registered in the U.S. Copyright Office prior to Defendant's infringements, pursuant to 17 U.S.C. § 505, Plaintiff is entitled and seeks to

recover statutory damages up to but not exceeding \$150,000 (One Hundred Fifty Thousand Dollars) for each work infringed.

18. Pursuant to 17 U.S.C. § 1203(c)(3), Plaintiff is entitled and seeks to recover statutory damages from Defendant not exceeding \$25,000 for each act committed in violation of 17 U.S.C. § 1202.

19. Plaintiff is entitled and seeks to recover his reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505 and 1203(b)(5).

**PLAINTIFF DEMANDS JUDGMENT:**

20. That Defendant, its agents, employees and/or servants be enjoined preliminarily and permanently from infringing Plaintiff's copyrights in any manner whatsoever, and from publishing through any visual media, and from selling, marketing or otherwise distributing any of its images;

21. That Defendant be required to deliver up, under oath, for impounding during the pendency of this action, and for destruction thereafter, all images which infringe Plaintiff's copyrights, and all prints, film negatives, magnetic tapes, digitally scanned and/or stored images, and all other articles by means of which such infringing copies may be reproduced, which are in the possession or under the direct or indirect control of Defendant;

22. That Defendant be required to pay over to Plaintiff its actual damages sustained, in addition to all its profits attributable to the infringements, and which are not taken into account in computing Plaintiff's actual damages incurred as a result of Defendant's copyright infringements and violations described herein, or, alternatively, the statutory damages to which Plaintiff is entitled under 17 U.S.C. § 505 and 17 U.S.C. § 1203(c)(3);

23. That Defendant provide an accounting of all gains, profits and advantages derived by it as

a result of the willful and unlawful acts of copyright infringement and violations described herein;

24. That Defendant be ordered to pay to Plaintiff its costs and attorney's fees; and

25. That Plaintiff have such other and further relief as this court shall deem just and proper.

**Plaintiff demands a jury trial in this cause of action.**

Respectfully submitted,

By: /s/ David G. Henry

**Gray, Reed & McGraw, P.C.**

David G. Henry, Sr.

State Bar No. 09479355

Russell E. Jumper

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